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Kennedy Reportedly Defies Attempt To Force His Resignation

U.S. Attorney's Ouster Sought By Justice Dept.

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WASHINGTON — The Justice Department has asked William H. Kennedy to resign as U.S. attorney for San Diego but an associate of Kennedy quoted the federal prosecutor yesterday as saying he will not obey the request.

Kennedy, who can be fired only by President Reagan, was asked to resign in a Wednesday night telephone call from Washington because he publicly confirmed a San Diego Union story that identified a former top Mexican official as a Central Intelligence Agency source, Justice Department officials said yesterday.

Kennedy, who had confirmed that the Justice Department blocked his efforts to prosecute the Mexican official in connection with a car-theft ring because of his CIA connection, was unavailable for comment yesterday.

The associate in San Diego who quoted Kennedy as asserting he will stay on the job said, "he isn't going to roll over and play dead. He's been treated shabbily."

A refusal by Kennedy to step down would be unusual, since U.S. attorneys traditionally leave office when requested by their superiors at the Justice Department.

However, expressions of support for Kennedy and criticism of the Justice Department began rolling in yesterday from members of the San Diego legal community, including lawyers and judges.

"It is inconceivable to me that anybody would be forced from office for speaking the truth," said San Diego Superior Court Judge Ross Tharp, a friend of the Kennedy family.

Tharp said he hopes Kennedy will resist the attempt to oust him.

Kennedy was telephoned Wednesday night by Associate Attorney General Rudolph Giuliani. Giuliani asked Kennedy to write a letter of resignation to President Reagan, who appointed him last year, Justice Department officials said.

Although Kennedy had confirmed information developed by The San Diego Union from other sources, the Justice Department criticized him for having "put the imprimatur of the U.S. government on that story," one Justice Department official said.

The official said Kennedy's confirmation to the newspaper "angered the CIA, the FBI and the (Justice) department, and it embarrassed the administration with foreign governments."

"This is a tough administration for this kind of mistake," the official said. He described the decision to seek Kennedy's resignation as "an easy call."

In a story published in The Union last Friday, Kennedy, 51, confirmed that his intended prosecution of Miguel Nassar Haro in connection with a major car-theft ring that smuggled cars from Southern California into Mexico had been held up by the Jus-

tice Department because the CIA said Nassar was a significant source of intelligence.

Nassar until January headed Mexico's Directorate of Federal Security.

A CIA official said Tuesday the agency's concern for protecting Nassar diminished greatly when he left his job as DFS director and it now had no objections to prosecution. The official said the prosecution is expected to proceed, although Justice Department officials said no final decision has been made.

Top Justice officials, including Attorney General William French Smith, became angry when learning of Kennedy's published comments, according to department sources.

The officials obtained and reviewed The Union's story Friday afternoon, and Giuliani on Saturday ordered Kennedy to be in Washington on Monday to explain his actions.

Kennedy had two meetings with Giuliani and Deputy Attorney General Edward A. Schmults Monday afternoon. As Kennedy was returning to San Diego Tuesday, Giuliani prepared a report for Smith, officials said.

Smith reviewed the case Wednesday morning and approved Giuliani's and Schmults' recommendation that Kennedy be asked to resign.

On Wednesday afternoon, Justice Department officials told The Associated Press that Kennedy had been asked to resign because they thought Giuliani already had telephoned Kennedy, department sources said.

When the news agency's story generated inquiries to the department, the officials discovered that Giuliani had yet to make the call to Kennedy.

Giuliani then telephoned Kennedy around 8:30 p.m. San Diego time.

Officials refused to say what Kennedy told Giuliani when he heard